

REFERENCE TITLE: homeowners' associations; initiatives

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

## HB 2454

Introduced by  
Representatives Campbell CL, Heinz, Patterson

### AN ACT

AMENDING SECTION 33-1227, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 33-1262 AND 33-1263; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 33-1817 AND 33-1818; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 33-1227, Arizona Revised Statutes, is amended to read:

33-1227. Amendment of declaration

~~A. Except in cases of amendments that may be executed by a declarant under section 33-1220, by the association under section 33-1206 or section 33-1216, subsection D, or by certain unit owners under section 33-1218, subsection B, section 33-1222, section 33-1223 or section 33-1228, subsection B, and except to the extent permitted or required by other provisions of this chapter, the declaration, including the plat, may be amended only by a vote of the unit owners to which at least sixty-seven per cent of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential use. The declaration may also provide that the consent of the declarant is required to an amendment during any period of declarant control pursuant to section 33-1243. Within thirty days after the adoption of any amendment pursuant to this subsection, the association shall prepare, execute and record a written instrument setting forth the amendment.~~

~~B.~~ A. An action to challenge the validity of an amendment adopted by the association pursuant to this section OR SECTION 33-1263 shall not be brought more than one year after the amendment is recorded.

~~C.~~ B. An amendment to the declaration shall be recorded in each county in which any portion of the condominium is located and is effective only on recordation in the same manner as required for the declaration under section 33-1211.

~~D.~~ C. Except to the extent expressly permitted or required by other provisions of this chapter, an amendment shall not create or increase special declarant rights, increase the number of units or change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners.

~~E.~~ D. An amendment shall not terminate or decrease any unexpired development right, special declarant right or period of declarant control unless the declarant approves.

~~F.~~ E. Amendments to the declaration required by this chapter to be executed by the association shall be executed on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 2. Title 33, chapter 9, article 3, Arizona Revised Statutes, is amended by adding sections 33-1262 and 33-1263, to read:

33-1262. Initiative petitions; submittal; tally; effect

AFTER THE PERIOD OF DECLARANT CONTROL AND NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS OR ANY PROVISION OF TITLE 10:

1. A UNIT OWNER MAY CIRCULATE AND SUBMIT AN INITIATIVE PETITION THAT PROPOSES A NEW OR MODIFIED PROVISION OF THE CONDOMINIUM DOCUMENTS. THE

1 PROPOSED MEASURE SHALL CONTAIN ONLY ONE PROPOSAL SO THAT THOSE PERSONS VOTING  
2 ON THE MEASURE MAY VOTE FOR OR AGAINST EACH MEASURE SEPARATELY.

3 2. A PETITION FOR A CONDOMINIUM ASSOCIATION INITIATIVE SHALL BE IN  
4 SUBSTANTIALLY THE FOLLOWING FORM:

5 CONDOMINIUM ASSOCIATION INITIATIVE DESCRIPTION

6 (INSERT A DESCRIPTION OF NO MORE THAN ONE HUNDRED WORDS OF  
7 THE PRINCIPAL PROVISIONS OF THE PROPOSED MEASURE AND ATTACH A  
8 COPY OF THE PROPOSED PROVISION OF THE CONDOMINIUM DOCUMENTS.)

9 BEFORE SIGNING, MAKE SURE THE TEXT OF THE MEASURE IS  
10 ATTACHED. YOU HAVE THE RIGHT TO READ OR EXAMINE THE TEXT BEFORE  
11 SIGNING.

12 CONDOMINIUM ASSOCIATION INITIATIVE MEASURE

13 WE, THE UNDERSIGNED MEMBERS OF THE  (NAME OF  
14 ASSOCIATION) , RESPECTFULLY DEMAND THAT THE FOLLOWING  
15 PROPOSED PROVISION OF THE CONDOMINIUM DOCUMENTS GOVERNING THE  
16 ASSOCIATION AND ITS MEMBERS BE SUBMITTED TO THE MEMBERSHIP FOR  
17 APPROVAL OR REJECTION AT A MEETING HELD FOR THAT PURPOSE.

18 I HAVE PERSONALLY SIGNED THIS PETITION WITH MY FIRST AND  
19 LAST NAMES. I AM AN OWNER AND MEMBER OF THE ASSOCIATION  
20 DESCRIBED ABOVE.

21 SIGNATURE	22 PRINTED	23 ADDRESS OR	24 DATE
	(FIRST AND	UNIT NUMBER	SIGNED
	LAST NAME)		

25 3. BEFORE CIRCULATING AN INITIATIVE PETITION FOR SIGNATURES, A  
26 PROPONENT OF THE MEASURE SHALL SUBMIT A COPY OF THE MEASURE TO THE BOARD OF  
27 DIRECTORS OF THE ASSOCIATION. THE BOARD SHALL RESPOND TO THE PROPONENT IN  
28 WRITING WITHIN FIFTEEN BUSINESS DAYS AFTER RECEIPT OF THE MEASURE AS TO  
29 WHETHER THE BOARD WILL SUBMIT THE MEASURE OF ITS OWN ACCORD TO THE UNIT  
30 OWNERS. IF THE BOARD CHOOSES TO SUBMIT THE MEASURE TO THE UNIT OWNERS  
31 WITHOUT REQUIRING COMPLIANCE WITH THE PETITION PROCESS IN THIS SECTION, THE  
32 MEASURE SHALL BE SUBMITTED WITHIN THE TIME PERIODS PRESCRIBED IN THIS SECTION  
33 AND VOTED ON PURSUANT TO SECTION 33-1263. IF THE BOARD DECLINES TO SUBMIT  
34 THE MEASURE TO THE UNIT OWNERS WITHOUT REQUIRING COMPLIANCE WITH THE PETITION  
35 SUBMITTAL REQUIREMENTS BECAUSE THE MEASURE VIOLATES THE LAW OR CONFLICTS WITH  
36 A CONDOMINIUM DOCUMENT WITH HIGHER LEGAL AUTHORITY THAN THE PROPOSED MEASURE,  
37 THE BOARD SHALL STATE THAT REASON IN ITS RESPONSE TO THE PROPONENT.

38 4. UNLESS THE CONDOMINIUM DOCUMENTS PROVIDE FOR A SMALLER PERCENTAGE  
39 OR SMALLER NUMBER THAT IS NO LOWER THAN A MAJORITY OF THOSE ELIGIBLE TO SIGN,  
40 THE INITIATIVE PETITION SHALL BE SIGNED BY AT LEAST TWENTY PER CENT OF THE  
41 UNIT OWNERS OF THE ASSOCIATION BUT NO FEWER THAN FIVE UNIT OWNERS. FOR  
42 PROPERTY WITH MULTIPLE OWNERSHIP, ONLY ONE PERSON MAY SIGN FOR THAT PROPERTY  
43 AND THE SIGNATURE OF AN ADDITIONAL CO-OWNER IS NOT VALID. NEITHER THE BOARD  
44 OF DIRECTORS NOR THE UNIT OWNERS MAY ADOPT AN INITIATIVE SIGNATURE  
REQUIREMENT THAT IS GREATER THAN THAT PRESCRIBED BY THIS PARAGRAPH.

5. PETITIONERS SHALL CIRCULATE THE PETITION FOR SIGNATURES AND ON COMPLETION OF SIGNATURE GATHERING SHALL SUBMIT THEIR PETITIONS TO THE SECRETARY OF THE BOARD OF DIRECTORS. A PETITION IS NOT VALID UNLESS SUBMITTED WITHIN ONE HUNDRED TWENTY DAYS AFTER THE DATE OF THE WRITTEN NOTIFICATION FROM THE BOARD TO THE PROPONENT. ON RECEIPT OF A PETITION THAT APPEARS TO INCLUDE THE REQUISITE NUMBER OF SIGNATURES, THE BOARD SHALL SCHEDULE A SPECIAL MEETING OF THE BOARD WITHIN THIRTY DAYS AFTER RECEIPT OF THE SIGNED PETITIONS, OR IF A REGULAR MEETING OF THE BOARD WILL BE HELD WITHIN THIRTY DAYS AFTER RECEIPT OF THE SIGNED PETITIONS, THE BOARD MAY CONSIDER THE PETITION AT THE NEXT REGULAR MEETING OF THE BOARD.

6. AT AN OPEN SESSION OF THE REGULAR OR SPECIAL MEETING OF THE BOARD, THE BOARD SHALL EXAMINE THE PETITION SIGNATURES AND SHALL VALIDATE THOSE SIGNATURES THAT APPEAR TO BE VALID, UNLESS THERE IS SUBSTANTIAL EVIDENCE THAT A SIGNATURE IS NOT THE SIGNATURE OF THE PERSON PURPORTING TO SIGN THE PETITION OR IF THE PERSON IS NOT A MEMBER OF THE ASSOCIATION AS DETERMINED BY OWNERSHIP RECORDS ON THE DATE OF THE MEETING.

7. AT THE CONCLUSION OF THE TALLY, THE BOARD SHALL ANNOUNCE THE RESULTS AND IF A SUFFICIENT NUMBER OF SIGNATURES IS VALIDATED, THE PROPOSED MEASURE SHALL BE SUBMITTED FOR A VOTE OF THE UNIT OWNERS AT THE NEXT ANNUAL MEETING OF THE UNIT OWNERS OF THE ASSOCIATION IF THE ANNUAL MEETING MAY BE SCHEDULED AND HELD LAWFULLY NO EARLIER THAN SEVENTY-FIVE DAYS AFTER THE DATE THE SIGNATURES ARE VALIDATED AND NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER THE DATE THE SIGNATURES ARE VALIDATED. IF THE ANNUAL MEETING CANNOT BE SCHEDULED AND HELD LAWFULLY WITHIN THAT TIME LIMIT, THE BOARD SHALL SCHEDULE AND HOLD A SPECIAL MEETING OF THE UNIT OWNERS WITHIN THAT TIME LIMIT TO VOTE ON THE MEASURE UNLESS OTHERWISE AGREED TO BY THE PROPONENT AND THE BOARD. THIS SECTION DOES NOT REQUIRE THE BOARD TO SUBMIT A PETITION TO THE UNIT OWNERS THAT IS IN VIOLATION OF THE LAW OR THAT IS IN CONFLICT WITH A CONDOMINIUM DOCUMENT WITH HIGHER AUTHORITY.

8. AT THE UNIT OWNERS MEETING TO VOTE ON THE INITIATIVE MEASURE, THE BOARD SHALL ENSURE THAT THE MEETING REMAINS OPEN TO THE UNIT OWNERS UNTIL ALL VOTES ARE CAST AND TALLIED AND THE RESULTS ARE ANNOUNCED.

33-1263. Amendments to condominium documents; quorum; limitations

A. AFTER THE PERIOD OF DECLARANT CONTROL AND NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, THE UNIT OWNERS MAY AMEND THE CONDOMINIUM DOCUMENTS BY A VOTE OF AT LEAST TWO-THIRDS OF THOSE VOTING ON THE MEASURE, EXCEPT THAT IF THE CONDOMINIUM DOCUMENTS PROVIDE FOR A SMALLER PERCENTAGE THAT IS AT LEAST FIFTY PER CENT OF THOSE VOTING, THE SMALLER PERCENTAGE APPLIES. FOR ANY CONDOMINIUM WITH A DECLARATION AMENDMENT REQUIREMENT OF MORE THAN A TWO-THIRDS VOTE, THE CONDOMINIUM BY A VOTE OF THE UNIT OWNERS OR OTHERWISE MAY NOT SUBSEQUENTLY ADOPT A DECLARATION AMENDMENT VOTE REQUIREMENT THAT IS LESS THAN THAT PRESCRIBED BY THIS SUBSECTION.

1           B. FOR ANY MEETING OF THE ASSOCIATION AT WHICH THE UNIT OWNERS ARE  
2 VOTING ON A PROPOSED AMENDMENT TO THE CONDOMINIUM DOCUMENTS, THE FOLLOWING  
3 APPLY:

4           1. THE ASSOCIATION SHALL DELIVER TO THE UNIT OWNERS, AT LEAST THIRTY  
5 BUT NOT MORE THAN SIXTY DAYS BEFORE THE MEETING, WRITTEN NOTICE OF ANY  
6 MEETING CALLED FOR THE PURPOSE OF AMENDING THE CONDOMINIUM DOCUMENTS AND THE  
7 TEXT OF ANY PROPOSED AMENDMENT.

8           2. ANY AMENDMENT TO THE DECLARATION THAT IS ADOPTED BY THE ASSOCIATION  
9 IS EFFECTIVE ON RECORDING.

10          3. DOCUMENTS RELATING TO ANY ADOPTED AMENDMENT SHALL BE KEPT WITH THE  
11 OTHER BOOKS AND RECORDS OF THE ASSOCIATION FOR AT LEAST ONE YEAR AFTER  
12 RECORDING OF THE AMENDMENT.

13          4. A QUORUM IS PRESENT FOR PURPOSES OF VOTING ON AMENDMENTS TO THE  
14 CONDOMINIUM DOCUMENTS IF UNIT OWNERS HOLDING AT LEAST THIRTY PER CENT OF THE  
15 VOTES IN THE ASSOCIATION ARE PRESENT IN PERSON OR AS OTHERWISE PERMITTED BY  
16 LAW.

17          C. IF AT LEAST TWO-THIRDS OF THOSE PERSONS VOTING ON THE AMENDMENT  
18 APPROVE THE AMENDMENT, THE PROPOSED PROVISION OF THE CONDOMINIUM DOCUMENTS IS  
19 APPROVED AND SHALL THEREAFTER BE APPLICABLE AS IF ADOPTED BY THE BOARD OF  
20 DIRECTORS.

21          D. THIS SECTION DOES NOT APPLY TO THE MODIFICATION OF THE CONDOMINIUM  
22 DOCUMENTS THAT DOES ANY OF THE FOLLOWING:

23           1. REQUIRES THE EXCLUSIVE USE OF ONE OR MORE BUILDERS, DEVELOPERS OR  
24 CONTRACTORS FOR THE CONDOMINIUM AS IDENTIFIED IN THE CONDOMINIUM DOCUMENTS.

25           2. REGULATES THE TRANSITION FROM DECLARANT CONTROL OF THE CONDOMINIUM  
26 TO NONDECLARANT OWNER CONTROL, INCLUDING ANY TRANSITION RELATED DOCUMENTS OR  
27 REQUIREMENTS.

28           3. CHANGES THE USE OF AND ACCESS TO THE COMMON ELEMENTS OF THE  
29 CONDOMINIUM OR OTHER AREAS OVER WHICH THE ASSOCIATION CONTROLS USE OR ACCESS  
30 FOR THE GUESTS AND INVITEES OF THE DECLARANT, ITS AFFILIATES, SUCCESSORS OR  
31 ASSIGNS OR OF THE UNIT OWNERS AS PROVIDED IN THE CONDOMINIUM DOCUMENTS,  
32 INCLUDING USE AND ACCESS FOR BUSINESS OR MARKETING PURPOSES, USE OF AND  
33 ACCESS TO EASEMENTS AND COMMON ELEMENTS BY THE DECLARANT, ITS AFFILIATES,  
34 SUCCESSORS AND ASSIGNS AND USE OF AND ACCESS TO ANY AREAS OVER WHICH THE  
35 ASSOCIATION CONTROLS USE OR ACCESS.

36           4. CHANGES THE USE OF AND ACCESS TO EASEMENTS OR ANY MAINTENANCE  
37 OBLIGATIONS OF THE ASSOCIATION FOR THOSE EASEMENTS.

38           5. CHANGES THE USE, OPERATION, MAINTENANCE OR DISPOSITION OF COMMON  
39 ELEMENTS IN THE CONDOMINIUM.

40           6. CHANGES THE AMOUNT OR LEVEL OF ASSESSMENTS ON UNITS OWNED BY THE  
41 DECLARANT.

42           7. PRESCRIBES A MINIMUM AGE FOR OWNERSHIP OR OCCUPANCY OF THE  
43 CONDOMINIUM IN COMPLIANCE WITH FEDERAL AND STATE LAW.

1 8. CHANGES ANY PROCEDURES OR PRACTICES THAT ARE REASONABLY REQUIRED  
2 FOR COMPLIANCE WITH FEDERAL, STATE OR LOCAL LAWS OR REGULATORY REQUIREMENTS.

3 9. REQUIRES MEMBERSHIP IN A MASTER ASSOCIATION IN ADDITION TO  
4 REQUIRING MEMBERSHIP IN THE CONDOMINIUM ASSOCIATION.

5 10. APPLIES NONUNIFORMLY TO SIMILAR UNITS.

6 11. CHANGES THE BASIS FOR ALLOCATING VOTING RIGHTS OR ASSESSMENTS AMONG  
7 UNIT OWNERS.

8 12. AMENDS THE PLAT OR AMENDS THE REQUIREMENTS OF THE PLAT.

9 13. AMENDS THE DECLARATION BY EXECUTION OF DOCUMENTS BY ANY OF THE  
10 FOLLOWING:

11 (a) THE DECLARANT UNDER SECTION 33-1216.

12 (b) THE ASSOCIATION UNDER SECTION 33-1206 OR SECTION 33-1216,  
13 SUBSECTION D.

14 (c) CERTAIN UNIT OWNERS UNDER SECTION 33-1218, SUBSECTION B, SECTION  
15 33-1222, SECTION 33-1223 OR SECTION 33-1228, SUBSECTION B.

16 E. THIS SECTION DOES NOT PREVENT OR LIMIT THE BOARD OF DIRECTORS OR  
17 ASSOCIATION FROM AMENDING THE CONDOMINIUM DOCUMENTS AS PRESCRIBED IN THE  
18 CONDOMINIUM DOCUMENTS.

19 Sec. 3. Title 33, chapter 16, article 1, Arizona Revised Statutes, is  
20 amended by adding sections 33-1817 and 33-1818, to read:

21 33-1817. Initiative petitions; submittal; tally; effect

22 AFTER THE PERIOD OF DECLARANT CONTROL AND NOTWITHSTANDING ANY PROVISION  
23 IN THE COMMUNITY DOCUMENTS OR ANY PROVISION OF TITLE 10:

24 1. A MEMBER MAY CIRCULATE AND SUBMIT AN INITIATIVE PETITION THAT  
25 PROPOSES A NEW OR MODIFIED PROVISION OF THE COMMUNITY DOCUMENTS. THE  
26 PROPOSED MEASURE SHALL CONTAIN ONLY ONE PROPOSAL SO THAT THOSE PERSONS VOTING  
27 ON THE MEASURE MAY VOTE FOR OR AGAINST EACH MEASURE SEPARATELY.

28 2. A PETITION FOR A PLANNED COMMUNITY ASSOCIATION INITIATIVE SHALL BE  
29 IN SUBSTANTIALLY THE FOLLOWING FORM:

30 PLANNED COMMUNITY ASSOCIATION INITIATIVE DESCRIPTION

31 (INSERT A DESCRIPTION OF NO MORE THAN ONE HUNDRED WORDS OF  
32 THE PRINCIPAL PROVISIONS OF THE PROPOSED MEASURE AND ATTACH A  
33 COPY OF THE PROPOSED PROVISION OF THE COMMUNITY DOCUMENTS.)

34 BEFORE SIGNING, MAKE SURE THE TEXT OF THE MEASURE IS  
35 ATTACHED. YOU HAVE THE RIGHT TO READ OR EXAMINE THE TEXT BEFORE  
36 SIGNING.

37 PLANNED COMMUNITY ASSOCIATION INITIATIVE MEASURE

38 WE, THE UNDERSIGNED MEMBERS OF THE (NAME OF  
39 ASSOCIATION), RESPECTFULLY DEMAND THAT THE FOLLOWING  
40 PROPOSED PROVISION OF THE COMMUNITY DOCUMENTS GOVERNING THE  
41 ASSOCIATION AND ITS MEMBERS BE SUBMITTED TO THE MEMBERSHIP FOR  
42 APPROVAL OR REJECTION AT A MEETING HELD FOR THAT PURPOSE.

43 I HAVE PERSONALLY SIGNED THIS PETITION WITH MY FIRST AND  
44 LAST NAMES. I AM AN OWNER AND MEMBER OF THE ASSOCIATION  
45 DESCRIBED ABOVE.

1	SIGNATURE	PRINTED	ADDRESS OR	DATE
2		(FIRST AND	UNIT NUMBER	SIGNED
3		LAST NAME)		

4        3. BEFORE CIRCULATING AN INITIATIVE PETITION FOR SIGNATURES, A  
5 PROONENT OF THE MEASURE SHALL SUBMIT A COPY OF THE MEASURE TO THE BOARD OF  
6 DIRECTORS OF THE ASSOCIATION. THE BOARD SHALL RESPOND TO THE PROPONENT IN  
7 WRITING WITHIN FIFTEEN BUSINESS DAYS AFTER RECEIPT OF THE MEASURE AS TO  
8 WHETHER THE BOARD WILL SUBMIT THE MEASURE OF ITS OWN ACCORD TO THE MEMBERS.  
9 IF THE BOARD CHOOSES TO SUBMIT THE MEASURE TO THE MEMBERS WITHOUT REQUIRING  
10 COMPLIANCE WITH THE PETITION PROCESS IN THIS SECTION, THE MEASURE SHALL BE  
11 SUBMITTED WITHIN THE TIME PERIODS PRESCRIBED IN THIS SECTION AND VOTED ON  
12 PURSUANT TO SECTION 33-1818. IF THE BOARD DECLINES TO SUBMIT THE MEASURE TO  
13 THE MEMBERS WITHOUT REQUIRING COMPLIANCE WITH THE PETITION SUBMITTAL  
14 REQUIREMENTS BECAUSE THE MEASURE VIOLATES THE LAW OR CONFLICTS WITH A  
15 COMMUNITY DOCUMENT WITH HIGHER LEGAL AUTHORITY THAN THE PROPOSED MEASURE, THE  
16 BOARD SHALL STATE THAT REASON IN ITS RESPONSE TO THE PROPONENT.

17        4. UNLESS THE COMMUNITY DOCUMENTS PROVIDE FOR A SMALLER PERCENTAGE OR  
18 SMALLER NUMBER THAT IS NO LOWER THAN A MAJORITY OF THOSE ELIGIBLE TO SIGN,  
19 THE INITIATIVE PETITION SHALL BE SIGNED BY AT LEAST TWENTY PER CENT OF THE  
20 MEMBERS OF THE ASSOCIATION BUT NO FEWER THAN FIVE MEMBERS. FOR PROPERTY WITH  
21 MULTIPLE OWNERSHIP, ONLY ONE PERSON MAY SIGN FOR THAT PROPERTY AND THE  
22 SIGNATURE OF AN ADDITIONAL CO-OWNER IS NOT VALID. NEITHER THE BOARD OF  
23 DIRECTORS NOR THE MEMBERS OF THE PLANNED COMMUNITY MAY ADOPT AN INITIATIVE  
24 SIGNATURE REQUIREMENT THAT IS GREATER THAN THAT PRESCRIBED BY THIS PARAGRAPH.

25        5. PETITIONERS SHALL CIRCULATE THE PETITION FOR SIGNATURES AND ON  
26 COMPLETION OF SIGNATURE GATHERING SHALL SUBMIT THEIR PETITIONS TO THE  
27 SECRETARY OF THE BOARD OF DIRECTORS. A PETITION IS NOT VALID UNLESS  
28 SUBMITTED WITHIN ONE HUNDRED TWENTY DAYS AFTER THE DATE OF THE WRITTEN  
29 NOTIFICATION FROM THE BOARD TO THE PROPONENT. ON RECEIPT OF A PETITION THAT  
30 APPEARS TO INCLUDE THE REQUISITE NUMBER OF SIGNATURES, THE BOARD SHALL  
31 SCHEDULE A SPECIAL MEETING OF THE BOARD WITHIN THIRTY DAYS AFTER RECEIPT OF  
32 THE SIGNED PETITIONS, OR IF A REGULAR MEETING OF THE BOARD WILL BE HELD  
33 WITHIN THIRTY DAYS AFTER RECEIPT OF THE SIGNED PETITIONS, THE BOARD MAY  
34 CONSIDER THE PETITION AT THE NEXT REGULAR MEETING OF THE BOARD.

35        6. AT AN OPEN SESSION OF THE REGULAR OR SPECIAL MEETING OF THE BOARD,  
36 THE BOARD SHALL EXAMINE THE PETITION SIGNATURES AND SHALL VALIDATE THOSE  
37 SIGNATURES THAT APPEAR TO BE VALID, UNLESS THERE IS SUBSTANTIAL EVIDENCE THAT  
38 A SIGNATURE IS NOT THE SIGNATURE OF THE PERSON PURPORTING TO SIGN THE  
39 PETITION OR IF THE PERSON IS NOT A MEMBER OF THE ASSOCIATION AS DETERMINED BY  
40 OWNERSHIP RECORDS ON THE DATE OF THE MEETING.

41        7. AT THE CONCLUSION OF THE TALLY, THE BOARD SHALL ANNOUNCE THE  
42 RESULTS AND IF A SUFFICIENT NUMBER OF SIGNATURES IS VALIDATED, THE PROPOSED  
43 MEASURE SHALL BE SUBMITTED FOR A VOTE OF THE MEMBERSHIP AT THE NEXT ANNUAL  
44 MEETING OF THE MEMBERS OF THE ASSOCIATION IF THE ANNUAL MEETING MAY BE  
45 SCHEDULED AND HELD LAWFULLY NO EARLIER THAN SEVENTY-FIVE DAYS AFTER THE DATE

1 THE SIGNATURES ARE VALIDATED AND NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER  
2 THE DATE THE SIGNATURES ARE VALIDATED. IF THE ANNUAL MEETING CANNOT BE  
3 SCHEDULED AND HELD LAWFULLY WITHIN THAT TIME LIMIT, THE BOARD SHALL SCHEDULE  
4 AND HOLD A SPECIAL MEETING OF THE MEMBERS WITHIN THAT TIME LIMIT TO VOTE ON  
5 THE MEASURE UNLESS OTHERWISE AGREED TO BY THE PROPONENT AND THE BOARD. THIS  
6 SECTION DOES NOT REQUIRE THE BOARD TO SUBMIT A PETITION TO THE MEMBERS THAT  
7 IS IN VIOLATION OF THE LAW OR THAT IS IN CONFLICT WITH A COMMUNITY DOCUMENT  
8 WITH HIGHER AUTHORITY.

9 8. AT THE MEMBERSHIP MEETING TO VOTE ON THE INITIATIVE MEASURE, THE  
10 BOARD SHALL ENSURE THAT THE MEETING REMAINS OPEN TO THE MEMBERS UNTIL ALL  
11 VOTES ARE CAST AND TALLIED AND THE RESULTS ARE ANNOUNCED.

12 33-1818. Amendments to community documents; quorum; limitations

13 A. AFTER THE PERIOD OF DECLARANT CONTROL AND NOTWITHSTANDING ANY  
14 PROVISION IN THE COMMUNITY DOCUMENTS, THE MEMBERS OF A PLANNED COMMUNITY MAY  
15 AMEND THE COMMUNITY DOCUMENTS BY A VOTE OF AT LEAST TWO-THIRDS OF THOSE  
16 VOTING ON THE MEASURE, EXCEPT THAT IF THE COMMUNITY DOCUMENTS PROVIDE FOR A  
17 SMALLER PERCENTAGE THAT IS AT LEAST FIFTY PER CENT OF THOSE VOTING, THE  
18 SMALLER PERCENTAGE APPLIES. FOR ANY PLANNED COMMUNITY WITH A DECLARATION  
19 AMENDMENT REQUIREMENT OF MORE THAN A TWO-THIRDS VOTE, THE PLANNED COMMUNITY  
20 BY A VOTE OF THE MEMBERSHIP OR OTHERWISE MAY NOT SUBSEQUENTLY ADOPT A  
21 DECLARATION AMENDMENT VOTE REQUIREMENT THAT IS LESS THAN THAT PRESCRIBED BY  
22 THIS SUBSECTION.

23 B. FOR ANY MEETING OF THE ASSOCIATION AT WHICH THE MEMBERS ARE VOTING  
24 ON A PROPOSED AMENDMENT TO THE COMMUNITY DOCUMENTS, THE FOLLOWING APPLY:

25 1. THE ASSOCIATION SHALL DELIVER TO THE MEMBERS OF THE ASSOCIATION, AT  
26 LEAST THIRTY BUT NOT MORE THAN SIXTY DAYS BEFORE THE MEETING, WRITTEN NOTICE  
27 OF ANY MEETING CALLED FOR THE PURPOSE OF AMENDING THE COMMUNITY DOCUMENTS AND  
28 THE TEXT OF ANY PROPOSED AMENDMENT.

29 2. ANY AMENDMENT TO THE DECLARATION THAT IS ADOPTED BY THE ASSOCIATION  
30 IS EFFECTIVE ON RECORDING.

31 3. DOCUMENTS RELATING TO ANY ADOPTED AMENDMENT SHALL BE KEPT WITH THE  
32 OTHER BOOKS AND RECORDS OF THE ASSOCIATION FOR AT LEAST ONE YEAR AFTER  
33 RECORDING OF THE AMENDMENT.

34 4. UNLESS THE DECLARATION SPECIFIES A SMALLER PERCENTAGE, A QUORUM IS  
35 PRESENT FOR PURPOSES OF VOTING ON AMENDMENTS TO THE COMMUNITY DOCUMENTS IF  
36 MEMBERS HOLDING AT LEAST THIRTY PER CENT OF THE VOTES IN THE ASSOCIATION ARE  
37 PRESENT IN PERSON OR AS OTHERWISE PERMITTED BY LAW.

38 C. IF AT LEAST TWO-THIRDS OF THOSE PERSONS VOTING ON THE AMENDMENT  
39 APPROVE THE AMENDMENT, THE PROPOSED PROVISION OF THE COMMUNITY DOCUMENTS IS  
40 APPROVED AND SHALL THEREAFTER BE APPLICABLE AS IF ADOPTED BY THE BOARD OF  
41 DIRECTORS.

42 D. THIS SECTION DOES NOT APPLY TO THE MODIFICATION OF THE COMMUNITY  
43 DOCUMENTS THAT DOES ANY OF THE FOLLOWING:



1           1. REQUIRES THE EXCLUSIVE USE OF ONE OR MORE BUILDERS, DEVELOPERS OR  
2 CONTRACTORS FOR THE PLANNED COMMUNITY AS IDENTIFIED IN THE COMMUNITY  
3 DOCUMENTS.

4           2. REGULATES THE TRANSITION FROM DECLARANT CONTROL OF THE PLANNED  
5 COMMUNITY TO NONDECLARANT OWNER CONTROL, INCLUDING ANY TRANSITION RELATED  
6 DOCUMENTS OR REQUIREMENTS.

7           3. CHANGES THE USE OF AND ACCESS TO THE COMMON AREAS OF THE PLANNED  
8 COMMUNITY AND ANY PROPERTY NOT OWNED BY THE ASSOCIATION FOR THE GUESTS AND  
9 INVITEES OF THE DECLARANT, ITS AFFILIATES, SUCCESSORS AND ASSIGNS OR OF THE  
10 MEMBERS AS PROVIDED IN THE COMMUNITY DOCUMENTS, INCLUDING USE AND ACCESS FOR  
11 BUSINESS OR MARKETING PURPOSES, USE OF AND ACCESS TO EASEMENTS AND COMMON  
12 AREAS BY THE DECLARANT, ITS AFFILIATES, SUCCESSORS AND ASSIGNS AND USE OF AND  
13 ACCESS TO ANY PROPERTY NOT OWNED BY THE ASSOCIATION.

14           4. CHANGES THE USE OF AND ACCESS TO EASEMENTS OR ANY MAINTENANCE  
15 OBLIGATIONS OF THE ASSOCIATION FOR THOSE EASEMENTS.

16           5. CHANGES THE USE, OPERATION, MAINTENANCE, DISPOSITION OF OR  
17 REQUIREMENT TO TAKE POSSESSION OF COMMON AREAS IN THE PLANNED COMMUNITY.

18           6. CHANGES THE AMOUNT OR LEVEL OF ASSESSMENTS ON LOTS OWNED BY THE  
19 DECLARANT.

20           7. PRESCRIBES A MINIMUM AGE FOR OWNERSHIP OR OCCUPANCY OF THE PLANNED  
21 COMMUNITY IN COMPLIANCE WITH FEDERAL AND STATE LAW.

22           8. CHANGES ANY PROCEDURES OR PRACTICES THAT ARE REASONABLY REQUIRED  
23 FOR COMPLIANCE WITH FEDERAL, STATE OR LOCAL LAWS OR REGULATORY REQUIREMENTS.

24           9. REQUIRES MEMBERSHIP IN A MASTER ASSOCIATION IN ADDITION TO  
25 REQUIRING MEMBERSHIP IN THE PLANNED COMMUNITY ASSOCIATION.

26           10. APPLIES NONUNIFORMLY TO SIMILAR LOTS.

27           11. CHANGES THE BASIS FOR ALLOCATING VOTING RIGHTS OR ASSESSMENTS AMONG  
28 MEMBERS.

29           12. AMENDS THE PLAT OR AMENDS THE REQUIREMENTS OF THE PLAT.

30           13. CHANGES ANY CONTRACT, OTHER THAN THE COMMUNITY DOCUMENTS, THAT  
31 EXTENDS BEYOND THE PERIOD OF DECLARANT CONTROL UNLESS THE CONTRACT WAS NOT  
32 BONA FIDE OR WAS UNCONSCIONABLE TO THE MEMBERS AT THE TIME ENTERED INTO UNDER  
33 THE CIRCUMSTANCES THEN PREVAILING.

34           E. THIS SECTION DOES NOT PREVENT OR LIMIT THE BOARD OF DIRECTORS OR THE  
35 ASSOCIATION FROM AMENDING THE COMMUNITY DOCUMENTS AS PRESCRIBED IN THE  
36 COMMUNITY DOCUMENTS.